IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

Crl.MC.No. 1770 of 2007()

ST.216/2005 OF THE JFMC-VII, THIRUVANANTHAPURAM.

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PETITIONER: ACCUSED

ANTONY SATHYARAJ,
T.C.11/917, MAYA NIVAS, MBRA-87,
NETAJI BOSE ROAD, CHARACHIRA,
THIRUVANANTHAPURAM.

BY ADV. SRI.THIRUMALA P.K.MANI

RESPONDENTS: COMPLAINANT/STATE

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1. S.RAMACHANDRAN THAMPI,
SATHYA SAIBABA MADOM, CHENTHITTA,
THIRUVANANTHAPURAM.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1770 OF 2007

Dated this the 1st day of June, 2007

ORDER

The petitioner is an accused in a prosecution under Sec.138 of the Negotiable Instruments Act. It is his case that the complainant had obtained a cheque as signed blank cheque for security and the same is being fraudulently misused by the complainant. He has filed a private complaint against the complainant. That complaint was dismissed. Against the dismissal of the complaint, a revision has been filed. That petition is pending before another Bench of this Court, it is submitted. That revision, it is urged, has already been admitted.

2. The prosecution under Sec.138 of the Negotiable Instruments Act is about to be boarded for trial. The, petitioner, at this stage, has come to this Court with this Crl.M.C. for a direction to the court below not to proceed with the said prosecution until a decision is taken in the Crl. Revision Petition challenging the dismissal of the counter

case. The trial is at the fag end, it is stated at the Bar by the learned counsel for the petitioner.

3. I find absolutely no merit in the prayer. Such prayer, according to me, must legitimately have been raised before the court which is entertaining the revision. The relief claimed is incidental to the main relief claimed in that revision. If the counter case where brought back to file, it would be important that the case and the counter case must be tried together. Without seeking that relief in the revision, I am unable to accept the course adopted by the petitioner to claim stay of proceedings in a separate Crl.M.C. I am satisfied, in these circumstances, that the petitioner does not deserve any relief.

4. This Crl.M.C. is, in these circumstances, dismissed. I may hasten to observe that the rights of the petitioner even now to move the court which is seized of the revision and seek appropriate directions shall remain unfettered by the dismissal of this Crl.M.C.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge